

UPDATED INFORMATIVE DIGEST

As originally adopted in Assembly Bill 1542 (Chapter 270, Statutes of 1997) and authorized by Welfare and Institutions Code Section 10544, if the state is assessed a federal fiscal penalty for not meeting the federal work participation rate (WPR), then the counties failing to make the rate are held accountable and will share in the penalty, after the exhaustion of all reasonable and available federal administrative remedies. Currently, there is no existing regulation to pass on any federal penalties assessed on the state to the counties.

Assembly Bill 1808 (Section 27.7, Chapter 75, Statutes of 2006) amended Welfare and Institution Code Section 10544 to clarify that 50 percent of the federal fiscal penalty the state is assessed will be passed on to the counties who fail to meet the federal work participation requirement. Previous language of Welfare and Institutions Code Section 10544 stated that the failing counties will share the penalty without specifying the percentage of the share. The amended statutory language clarifies the percentage of the federal fiscal penalty to be shared between the state and the counties failing to meet the federal rate requirement. This proposed regulation implements and makes specific the terms and requirements of Welfare and Institutions Code Section 10544.

As authorized in the amended Welfare and Institutions Code Section 10544, if a county's single allocation is reduced due to the sharing of the penalty, then the county is obligated to replace the reduction with county general funds, so that the total funding remains the same as the county's single allocation and is in addition to the funds required to meet the county's maintenance of effort requirement. Also added is the requirement that a county failing to meet the rate may be provided penalty relief, either full or partial, from sharing the fiscal penalty if the CDSS determines there were circumstances beyond the county's control that caused the county failure to meet the rate. In addition, new language allows penalty relief for a county based on the degree of success or progress in meeting federal requirements, and to the extent that there are differences between state and federal program requirements, the degree of success in meeting state participation requirements. Previous language in the Welfare and Institutions Code Section 10544 did not consider the differences between state and federal program requirements.

The amended Welfare and Institution Code Section 10544 requires that a county have good cause for failing to submit accurate and timely data used to measure the work participation rate, or it will be considered to have failed to meet the federal requirements. Section 10544 further requires that if there are differences between state and federal program requirements, a county may also be provided relief based on the degree of success in meeting state participation requirements. The definition of good cause includes, but shall not be limited to, the lack of accurate, timely, and complete instructions from CDSS.

Public comment was received as a result of the public hearing and the following changes have been made:

Section 91-110.63 is amended to clarify that any penalty pass-on will be the result of only the final county WPR, after the county has had the opportunity to submit revision.

Section 91-130.332 is amended to clarify that the disability being referred to in this section is pursuant to the federal data reporting rules which is found in 45 CFR 261.24.

Section 91-140 has amended handbook Section 91-130.44 to clarify and explain the penalty relief criteria found in Section 91-140.412.

Section 91-140.41 is amended to provide additional relief by adding Section 91-140.416 to further emphasize that counties can put forth any rational for good cause and penalty relief.

Section 91-140.5 is amended to include a timeframe of 60 days for CDSS to inform CWDs of any amounts that have been reduced or eliminated.

Section 91-140.6 is amended to include a timeframe of 60 days for CDSS to notify the county of the outcome of its appeal.

Section 91-140.7 is amended by replacing the word "adequate" with sufficient relevant information and documentation" to clarify what counties must provide to establish reason for penalty.

To allow the public an opportunity to review the amended emergency regulations, a 15-day renote was provided from May 27, to June 11, 2010 showing the amendments to Sections 91-110.6.63, 91-130, and 91-140.4.41.414, 91-140.4.41.416, 91.140.5, 91-140.6, and 91-140.7. Testimony was received requiring further changes and a second 15-day renote was held from June 24, to July 9, 2010 showing the amendments to Sections 91-110.6.61, and 91-110.6.63.